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EXAMINER

AGDEPPA, HECTOR A

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 15

Application Number: 09/097,186
Filing Date: June 12, 1998
Appellant(s): EKSTROM ET AL.

Gayle R. Ekstrom et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/16/02.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that some claims stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8), see appellant's brief.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,590,188

Crockett

12/31/96

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

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2. Claims 1 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crockett.

Regarding claims 1 – 10, and 15 – 20, Crockett teaches a rules-based call routing system and method whereby a switch may send routing queries to, and receive replies back from a call routing processor for selecting one of a plurality of call centers to be connected therewith, the call centers providing various services and/or functions well known in the art. Furthermore, Crockett teaches the use of call center status data sent to the call routing processor to affect call routing, wherein if status data is not available, using predetermined rules or preferences to route individual calls. Crockett also teaches the use of routing plans, planning data, and rules, all read as the claimed "routing scripts" and "service logic" of the claimed invention. Further taught by Crockett is obtaining calling numbers, called numbers, caller-entered digits, etc.

Inherent in the invention of Crockett is at least one intelligent peripheral for playing some sort of announcement to a caller and also for collecting the caller-entered digits and passing the digits to the call routing processor to affect call routing. Also, the switch comprising an AIN network is inherent in that any network allowing automatic reaction to changing conditions, whether customer-initiated or otherwise, is an advanced intelligent network as described by Crockett. Also inherent in any AIN is the use of SCPs. At the least, AIN networks would be obvious to use by one skilled in the art in that Crockett teaches using standard, well known switching networks, of which AIN is one. (Fig. 1, Col. 2, lines 37 – 41, Col. 5, line 1 – Col. 6, line 53, Col. 8, line 24 – Col. 9, line 21, and Col. 14, lines 5 – 60)

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What is not taught by Crockett is the switch being an LEC. Crockett's invention specifically mentions the switch being an IXC for handling 800 calls. However, being that Crockett teaches a plurality of switches and call centers located in geographically distant locations, it would be obvious to one skilled in the art to have also allowed the invention of Crockett to interact with an LEC inasmuch as it is well known in the art for companies providing 800/toll-free call center services to also accept local, caller-paid calls, and in some instances even require that locally located customers call the call center using a local number in order to avoid paying for unnecessary 800/toll-free call charges.

Also not explicitly taught by Crockett, is the intelligent peripheral being in communication with the switch via a data and voice/information channel.

However, this could be inherent and at the very least, this is well known in the art and would only be an obvious design choice to one skilled in the art.

Regarding claims 11 – 13, Crockett also fails to teach blocking caller ID information.

However, the feature and method of blocking caller ID is well known in the art and would have been an obvious feature to include in the invention of Crockett to one skilled in the art.

Regarding claims 21 and 22, Crockett considers call queues, busy agents, and subsequent, alternate routing and load distribution. (Col. 8, lines 24 – 53)

It would have been obvious to one skilled in the art to do the same for a no answer condition in that both situations result in a call not being answered and

furthermore, because providing alternate routing for a no answer condition is well known in the art.

Regarding claim 14, inasmuch as Crockett teaches receiving and routing calls on a call-by-call basis to connect a caller to the best possible service agent, for example, or in a way the best serves the needs of the caller, it would have been obvious to one skilled in the art to have included the feature of identifying the type of originating station. Furthermore, Crockett teaches gathering information regarding a caller and if for example the calling number alone might indicate that it is a mobile telephone as opposed to a land line telephone, and then again, it is obvious that an agent knowledgeable in mobile telephony would be the desired contact for the caller.

(11) *Response to Argument*

In the arguments section of appellant's appeal brief, pages 5 – 6, appellant argues that Crockett "fails to teach, suggest, or disclose handling caller-paid calls from local exchange networks (LEC) and interexchange carriers (IXC), " nor would it be obvious to do so as argued by Examiner in the office action filed 7/16/01 and in the advisory action filed 1/2/02.

As claimed, the present invention is drawn to a system wherein at least two call service centers may receive calls from either an LEC and/or an IXC. As appellant points out, "switch (14) is conventional and forms no part of the present invention," as noted in Col. 4, lines 65 – 67 of Crockett. This is important in that Crockett, by this very statement suggests that a call coming into a call service center/call routing processor

may originate from ANY type of switch. In other words, the originating switch is not germane to the invention of Crockett as Crockett is only concerned with routing an incoming call after it has left an originating switch. After leaving the switch, the call routing processor (12) analyzes and routes the call according to "caller-entered digits" (Col. 4, line 36), again re-affirming Examiner's assertion that Crockett contemplates calls originating from different network/switches as different dialed digits are used to arrive at the same call routing processor/call service center(s). Calls are also routed according to "geographic routing" (Col. 1, lines 34 – 54) which is old and well known and again suggests that Crockett contemplates the routing of calls to call service centers locally for various reasons noted in Col. 1 of Crockett.

Crockett further states that the system may provide its rules-based call routing in "various types of telephone systems... and any other telephone switch or network in which the inventive method could be incorporated into new or existing software systems." (Col. 2, line 654 – Col. 3, line 7)

Also, Crockett teaches that "the invention is implemented within a switching network or on separate computing equipment that communicates to the switching network via data facilities," and further that Fig. 1 shows a "representative telecommunications switching system,,," (Col. 1, line 52). Again, "representative " suggests that Crockett contemplates ANY type of switch or network working with his system, an IXC or LEC being old and well known examples of representative telecommunications switching systems.

The discussion above, in part, refutes appellant's argument that Examiner has not provided a *prima facie* case of obviousness. Furthermore, Examiner argues and maintains here, as in the advisory action filed 1/2/02, that it is old and well known for (a) call service center(s) to receive both 800, toll-free type calls and local, caller-paid calls, an example of which are the telephone numbers for general information regarding the US Patent and Trademark Office, 800-786-9199 and 703-308-4357, the 703' number being the local number for local northern Virginia area callers. In lieu of this, and since Crockett already teaches explicitly, receiving and processing 800, toll-free calls from IXC's, and the above discussion, it would be obvious to also have the ability to receive and process local, caller-paid calls as well. The motivation for allowing callers to access (a) call service center(s) via both IXC's and LEC's is twofold. The first reason is that a business or service center would like to make accessing their call service center(s) as easy and as cheap as possible. That entails providing an 800, toll-free number for those callers outside the local calling area of the call service center and for those local callers, providing a local number which would require making only a minimal, locally charged telephone call, and providing the possibility for better/quicker servicing due to the aforementioned "geographic routing," meaning that the call service center or call routing processor would recognize and differentiate between a locally-dialed number and a toll-free dialed number. The second reason is that an operator or an owner of a business or call service center does not want to pay the toll charges for an 800 call when a caller could access their call service center using a local number which is

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generally regarded as being very reasonable from the caller's standpoint, as again, the caller would only be minimally charged for a local call.

Also on page 4 of appellant's appeal brief, mention is made of the "centralized call distribution" of the instant invention. As can be seen, for example, by Fig. 1 of Crockett, only ONE call routing processor(12) is employed for routing calls to a plurality of call centers(16a – 16n) which inherently indicates that same "centralized call distribution" of the instant invention. Contrary to appellant's suggestions, the system of Crockett would retain it's centralized call distribution even if the system were to receive calls from both IXC's and LECs.

Also, in response to applicant's argument that there is no suggestion in Crockett to also process local, caller-paid calls, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves **or in the knowledge generally available to one of ordinary skill in the art.** See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In addition, a suggestion/motivation **need not be expressly stated** in one or all of the references used to show obviousness. *Cable Electric Products, Inc. V. Genmark, Inc.*, 770 F.2d 1015, 1025, 226 USPQ 881, 886 (Fed. Cir. 1985); *In re Sheckler*, 438 F.2d 999, 1001, 168 USPQ 716, 717 (CCPA 1971). It is assumed that every reference relies to some extent on the knowledge of persons skilled in the art to complement that which is disclosed therein. Further, the skilled artisan is presumed to know something

more about the art than only what is disclosed in the applied references. In other words, **the person having ordinary skill in the art has a level of knowledge apart from the content of the references.** *In re Bode*, 550 F.2d 656, 660, 193 USPQ 12, 16 (CCPA 1977); *In re Jacoby*, 309 F.2d 513,516, 135 USPQ 317, 319 (CCPA 1969)

This relates to suggestion/motivation in that "having established that this knowledge was in the art, the Examiner could then properly rely ... on a conclusion of obviousness 'from **common knowledge and common sense** of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference'." *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545,549 (CCPA 1969)

Even if Crockett were to be interpreted in a slightly different light, wherein the switch from where a call originated, whether an IXC and/or LEC, resided outside of network 10, still, the one switch(14) would receive those calls and query the call routing processor(12) for routing instructions, and because it is maintained by Examiner that it is old and well known for (a) call service center(s) to receive both 800, toll-free calls as well as local, caller-paid calls, the system of Crockett would still have to have the ability to handle both types of calls and be in communication with both IXCs and LECs.

Appellant also seemingly is arguing that the instant invention differs from the teachings of Crockett because Crockett does not consider switch(14) to be key to his invention. However, the only importance that the IXC and LEC have in the instant invention is that the instant invention will route both local, caller-paid and 800, toll-free calls. Therefore, the IXC, LEC switches themselves, as physical devices, have no real role nor do they hold substantial weight in the claims. They exist in the instant invention

only because calls originate from them while the focus of the instant invention, as in Crockett, truly lies in the call itself and its routing, NOT the switches.

As to claims 2 and 4 – 6, the above discussion is applicable and furthermore, Examiner asserts that both advanced intelligent networks(AIN) and LECs are old and well known. AINs can be regarded as being a platform for or a version or type of switch. AINs process calls with "intelligence" and signaling protocols not used in the older, standard type of switch or telephony network. However, as mentioned in the final office action filed 7/16/01 and as discussed above, Crockett teaches the network 10 being any type of switching network, including "AT&T's Intelligent Call Processing service," "telephone networks using SS7," generally known to be associated with AINs, or "any other telephone switch or network..." which clearly, the claimed AIN, would fall under.

As to claim 3, see above with regard to appellant's argument regarding Crockett's alleged contemplation of only a single type of network and the rules and/or routing table forms (Col. 10, line 3 – Col. 14, line 39) read upon the claimed routing scripts of the instant invention.

As to claims 7 – 15, Crockett has already been discussed above with regard to IXCs and LECs. An interface residing in an LEC for communications with the call routing processor is obvious if not inherent in Crockett. If the LEC is a different network or uses a protocol/signaling means that is foreign to call processor(12), which may very well be the case, as argued by Examiner, then of course there needs to be an interface so that the call controller of an LEC may communicate with the "separate" call routing processor (12) of Crockett, "separate" being emphasized, because this suggests that

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Crockett does not contemplate any one type of processor or type of protocol or type of signaling to be limiting in his invention, therefore, contemplating that it might very well be necessary to have some sort of interface as claimed.

As to claims 16 – 22, again, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves **or in the knowledge generally available to one of ordinary skill in the art.** See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In addition, a suggestion/motivation **need not be expressly stated** in one or all of the references used to show obviousness. *Cable Electric Products, Inc. V. Genmark, Inc.*, 770 F.2d 1015, 1025, 226 USPQ 881, 886 (Fed. Cir. 1985); *In re Sheckler*, 438 F.2d 999, 1001, 168 USPQ 716, 717 (CCPA 1971). It is assumed that every reference relies to some extent on the knowledge of persons skilled in the art to complement that which is disclosed therein. Further, the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied references. In other words, **the person having ordinary skill in the art has a level of knowledge apart from the content of the references.** *In re Bode*, 550 F.2d 656, 660, 193 USPQ 12, 16 (CCPA 1977); *In re Jacoby*, 309 F.2d 513, 516, 135 USPQ 317, 319 (CCPA 1969)

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obviousness 'from **common knowledge and common sense** of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference'." In re Bozek, 416 F.2d 1385, 1390, 163 USPQ 545,549 (CCPA 1969)

Furthermore, claims 16 – 22 are merely method claims substantially equivalent to the previous system/apparatus claims and Examiner's response to appellant's arguments regarding those claims, being mirrored here, are also applicable and the 103(a) rejection is NOT improper as suggested by appellant. Furthermore, this is precisely why a 103(a) rejection was given and not a 102 rejection.

In conclusion, it is believed that it would be obvious for the invention of Crockett to receive and service local, caller-paid calls from an LEC as well as 800, toll-free calls from an IXC.

For the above reasons, it is believed that the rejections should be sustained.

Hector A. Agdeppa

June, 7 2002


Conferees

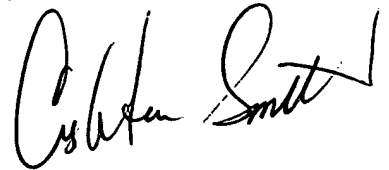
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